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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,851	02/07/2005	Wolfgang Fuchs	3190	4408

7590
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

03/27/2007

EXAMINER

PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/523,851	Applicant(s) FUCHS ET AL.	
	Examiner Jason Prone	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/7/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In Fig. 3, item "10". It is noted that item 10 is labeled in the Reference

Numerical List; however, item 10 must be incorporated into the detailed description section as well. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "diagonal and longitudinal creases", of claim 6, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 1, 3, 4, and 6 are objected to because of the following informalities: On lines 3-4 of claim 1, the phrase "having reinforcing elements that protrude out from the plane of the metal sheet, at least one of which is embodied" should be replaced with "having a plurality of reinforcing elements that protrude out from the plane of the metal sheet, at least one of said plurality of reinforcing elements is embodied". On line 3 of claims 4 and 6, the phrase "wherein at least one reinforcing element" should be replaced with "wherein another one of said plurality of reinforcing elements". On line 3 of claim 3, the term "magnesium alloy" needs to be included into the specification to prevent antecedent basis issues.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1 recites the limitations "the plane" on line 3 and "the miter angle" on lines 6-7. There is insufficient antecedent basis for these limitations in the claim.
7. Claims 2 and 5 recites the limitation "the material thickness" on line 2. There is insufficient antecedent basis for this limitation in the claim.
8. It is also noted that claim 5 does not define what the thickness is and the thickness could be interpreted as, using applicant's Fig. 3, a distance from one corner to another corner. Also due to lack of definition the height and the thickness could be interpreted to represent the same property.
9. Claim 4 discloses a circumferential collar structure that is independent of the lateral stop surface structure of claim 1. From the specification, it appears that lateral stop surface structure 12 is part of the circumferential collar structure 6. How can they be independent when one (12) makes up the other (6)?

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 4, and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewin et al. (6,691,418).

In regards to claim 1, Lewin et al. disclose the same invention including a base plate for a power tool (Fig. 8) comprised of a metal sheet having reinforcement elements that protrude out from the plane of the metal sheet (Fig. 8), at least one of which is in the form of a lateral stop surface (edge surface), having attachment elements that protrude out from the plane of the sheet (Fig. 8) and are provided for fastening the base plate to the miter angle (20), and the metal sheet is comprised of light metal and the entire base plate is embodied in one piece (Fig. 8).

In regards to claim 4, Lewin et al. disclose wherein one reinforcing element is embodied as a circumferential collar (Fig. 8, edge portion).

In regards to claim 6, Lewin et al. disclose wherein one reinforcing element is embodied as a lateral crease (Fig. 8, protruding lateral walls).

In regards to claims 7 and 8, Lewin et al. disclose connecting elements for an angle adjustment (62) and the connecting elements have bores that define a rotation axis for the angle adjustment (62 in Fig. 8).

In regards to claim 9, Lewin et al. disclose a method comprising bending (Fig. 8).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewin et al. in view of Kondo et al. (7,174,641). Lewin et al. discloses the invention but fails to disclose the light metal is an aluminum alloy.

Kondo et al. teach that it is old and well known in the art of power tool base plates to incorporate an aluminum alloy (Column 6 line 25). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Lewin et al. with an aluminum alloy base, as taught by Kondo et al., to reduce the weight.

14. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewin et al. with evidence patent Kondo et al. and applicant's admitted prior art. Lewin et al discloses the invention but is silent with respect to thickness dimensions. However, it is clear that the thickness of Lewin et al. would be on the same order as the claim thickness. On page 6 of the specification, applicant states "stamped components typically require material thicknesses of greater than 5mm. However the word "typically" allows one to interpret the fact that typical thicknesses are above 5mm but can 3mm. In light of this and Kondo et al. clearly discloses that weight of the base plate is an issue, one of ordinary skill in the art would have clearly reduced the thickness for another way of reducing the weight of the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a 3mm thickness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fuchs et al. ('155), Reich et al., Yoshida et al., Fuchs et al. ('124), Ngan et al., Wadge, Weber et al. WO 2005/025821, and WO 2004, 060621.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:00-4:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 19, 2007

Patent Examiner
Jason Prone
Art Unit 3724
T.C. 3700

